

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America

v.

MARSHALL NATHANIEL STOWE

Date of Previous Judgment: 02/07/1997
(Use Date of Last Amended Judgment if Applicable)

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Case No: 3:96CR46-06

USM No: 12466-058

Tanzania C. Cannon-Eckerle

Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: 31

Amended Offense Level: 29

Criminal History Category: III

Criminal History Category: III

Previous Guideline Range: 240 to 240 months

Amended Guideline Range: 240 to 240 months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☒ Other (explain): No reduction is authorized because Defendant's original sentence was "based on" a departure from the statutory mandatory minimum and not on a sentencing range lowered by Amendment 706. See United States v. Hood, --- F.3d ---, 2009 WL 416979 (4th Cir. Feb. 20, 2009).


III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated 02/07/1997 shall remain in effect.

IT IS SO ORDERED.

Order Date: February 24, 2009

Effective Date: _____
(if different from order date)


Frank D. Whitney
United States District Judge

